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Margaret M. Condon and Evan T. Jones (eds.), ‘Thomas Nash of Bristol, bowyer, vs. John Day *alias* Hugh Say: Chancery petition, c. 1502’ (University of Bristol, ROSE, 2012)¹

This is one of two petitions filed in the king’s court of Chancery by two different inhabitants of Bristol. Their common thread is that they are close in date and were brought against the same defendant.² Both petitions sought to stop actions earlier brought in the Staple Court of Bristol by Hugh Say, otherwise known as John Day, and to have them heard instead in Chancery.³ The particular importance of these two cases is that they provided the historian Alwyn Ruddock with the clues she needed to establish the true identity of John Day. Day was the merchant who wrote to Columbus during the winter of 1497/8 giving an account of the first two voyages of exploration undertaken by the Venetian navigator John Cabot / Zuan Caboto. These comprised an abortive expedition in 1496, followed by his famous voyage to the new world in 1497, which resulted in the European discovery, or rather rediscovery, of North America.⁴ The letter was, for Cabot studies, probably the single most important document discovery of the twentieth century.⁵ In proving that John Day was Hugh Say, Ruddock was able to show that some of the slightly odd features of the letter could be explained by Say’s eclectic career and a pedigree that suggested his descent from prominent London merchants.⁶ In so doing, she could demonstrate, with conviction, that Day’s letter to

¹ The National Archives: Public Record Office, UK [TNA:PRO], C1/268/1. The following conventions were employed when transcribing the document: the line spacing, spelling, capitalization, and punctuation follow the manuscript; reconstructions of suspensions are in italics; ‘u’ and ‘v’ have been rendered according to the document rather than to modern usage. Instances in which it is not clear whether an abbreviation is intended have been indicated by an apostrophe. Squared brackets indicate editorial additions. Continuous lines of dots indicate areas of loss from the manuscript itself: about 20 per cent of the bottom left of the parchment is missing. Most, but not all, of the missing material is likely to have consisted of stock phrases, as suggested in the footnotes to the transcript. This transcription was undertaken as part of the ‘Cabot Project’ (University of Bristol, 2009-) funded by the British Academy (SG100194) and Gretchen Bauta, a private Canadian benefactor. We would like to thank Dr Jeff Reed and Susan Snelgrove for commenting on an earlier draft of this paper.

² See also Margaret M. Condon and Evan T. Jones (eds.), ‘John Johns (Jonys) of Bristol, merchant vs. John Day *alias* Hugh Say: Chancery petition, c. 1502’ (University of Bristol, ROSE, 2012). The very similar damage to the two petitions suggests that they were later stored together. This implies that both actions were probably initiated in the same term.

³ For Bristol’s Staple Court see E. E. Rich (ed.), *The Staple Court Books of Bristol*, (Bristol Record Society, Vol. 5, 1934), although the introduction needs to be used with some caution.

⁴ There is good evidence for Norse discovery. The short-lived Norse settlement at L’Anse aux Meadows, Newfoundland, has been dated to the late tenth or early eleventh century, and is now a world heritage site. For a review of this and other possible ‘Norse’ contact with North America as late as the mid-fourteenth century see R. McGhee, ‘Native North Americans and the Medieval Norse: A Review of the Evidence’, *American Archaeology* (Vol. 49, 1984), pp. 4-26. For the original Icelandic text of the 1347 voyage see: J. Th. Thór, ‘Why was Greenland “lost”’, *Scandinavian Economic History Review*, xlviii (2000), pp. 30-1. For rumours of an accidental discovery by Bristol men of the ‘Island of Brasil’ below, n. 7 and H.L. Sharrer, ‘The passing of King Arthur to the Island of Brasil in a fifteenth-century Spanish version of the post-vulgate *Roman du Graal*’, *Romania*, xcii (1971), pp. 65-74. For the enduring legend of the ‘Island of Brasil’, T.J. Westropp, ‘Brasil and the Legendary Islands of the North Atlantic: their history and fable. A contribution to the ‘Atlantis’ problem’, *Proceedings of the Royal Irish Academy*, xxx (1912/13), pp. 240-60.

⁵ For the Day letter, L.-A. Vigneras, ‘New light on the 1497 Cabot voyage to America’, *The Hispanic American Historical Review*, xxxvi, (1956), 503-509, and *idem*, ‘The Cape Breton landfall: 1494 or 1497?’ *Canadian Historical Review*, xxxviii (1957), 219-28. Vigneras’s English translation is reprinted in J. A. Williamson, *The Cabot Voyages and Bristol Discovery under Henry VII* (Hakluyt Society, Second Series, No. 120, CUP, 1962), pp. 211-14. Some alternative readings are suggested in M. Ballasteros Gaibrois, *Juan Caboto*, (Serie Cuadernos Columbinos, xxi, Valladolid, 1997), pp. 223-5. A new transcription and translation of the letter, and a further study of Day/Say, are in course of preparation.

⁶ A. A. Ruddock, ‘John Day of Bristol and the English Voyages across the Atlantic before 1497’, *Geographical Journal*, vol. 132, no. 2 (June 1966), pp. 225-33; Margaret M. Condon and Evan T. Jones (eds.), ‘Will of Hugh

Columbus was likely to be a well-informed and credible narrative of John Cabot's discovery voyages. Day's letter also showed that tales of the Bristol tradition of an earlier discovery of the 'Isle of Brasil' were already known to Columbus.⁷

The two court cases are not directly related, but both arose out of Day's ill-fated partnership with another Bristol merchant, John Rokes.⁸ Thomas Nash, a Bristol bowyer, relates a story by which Day secured compensation for a debt unpaid by John Rokes.⁹ Deferred payment on a sale of merchandise – wine in this case – had, as was customary mercantile practice, been guaranteed by an obligation in which Nash, as well as Rokes, stood bound to Day. When Rokes defaulted, he was sued in Bristol's Staple court by Day.¹⁰ Arbiters were appointed by the court, and agreed by both parties. The arbiters were merchants of some standing, who themselves engaged in trade to both Spain and Portugal. They included two former bailiffs of Bristol, and a future sheriff: that is, all three were elected at some stage in their career as senior law and fiscal officers of the city.¹¹ They settled some of Rokes's goods on Day, including half ownership of a ship, the *Michael Mark*, and quantities of wine and woad at valuations set by the arbiters. This should have discharged the debt and led to the cancellation of the obligation. Despite this settlement, Nash claims that Day had subsequently brought an action of debt against him, based on the original obligation, Rokes having died in the interim. The petition asks that the mayor and constables of Bristol be required to certify their proceedings into Chancery (which would provide a stay on proceedings in Bristol) and that the case should then be heard in Chancery according to 'right and good conscience'.

As is usual for Chancery petitions of this date, the outcome is unknown, and there are no other documents to set against Nash's narrative. It is, for example, possible that the award to Day was an attachment on Rokes's goods pending final judgement in the Bristol court, although the involvement of arbiters makes this scenario less likely. It is also possible that Rokes subsequently disputed the award, or died before Day was put in full possession. Although Rokes was obviously the principal debtor, Nash, by entering into an obligation jointly with Rokes, became guarantor for the repayment of the debt. If Rokes then died with

Say, mercer of London, 10 December 1517' (University of Bristol, ROSE, 2011): <http://hdl.handle.net/1983/1747>.

⁷ Ruddock, 'John Day', pp. 229-33; and see above, n. 4.

⁸ John Rokes does not appear to have held any of the higher civic offices in Bristol: Bristol Record Office (BRO), 04720. Judging from his appearances in the 1492/3 customs accounts, however, John Rokys/Rookys seems to have been an active merchant, trading to France, Spain and Portugal for wine, woad and oil: TNA:PRO, E122/20/9, fos 6r, 9r, 13r, 17v, 20r, 25rv, 30v, 35v, 39r, 42r, 46r, 47rv, 49r, 51r, 53r, 56r. This would fit with the little that is known of Day's own trade as evidenced by this petition, by the 1492/3 customs account, E122/20/9, fos 12, 38, and by occasional references in Spanish sources, found by Vigneras. Rokes, for whom no will survives, may be the son or nephew of William Rokes of Bristol (d.1470), TNA:PRO, PROB11/5, fos 235r, v.

⁹ It is possible, although by no means certain, that Thomas Nash is the same 'Thomas Naish' who imported a single pipe of wine from San Lucar de Barrameda in 1492/3: TNA:PRO, E122/20/9, fo. 28v. It seems less likely that he is the same as the 'Thomas Nash' who imported a minor consignment from Ireland on 26 June 1504 on the *Mawdelen* of Waterford and then exported goods to Ireland on the same vessel on 11 July: Susan Flavin and E. T. Jones (eds), 'Bristol 'Particular' Customs Account, 1503/4' (University of Bristol, ROSE, 2011): <http://hdl.handle.net/1983/1296>.

¹⁰ In return for the payment of a fine for entry, Day had been admitted to the Staple of Bristol in 1494 as John Day of London, mercer: Ruddock, 'John Day', pp. 225-26.

¹¹ John Popley was bailiff of the city 1492/3, as was David Leyson 1495/6; Thomas Smith became sheriff during the course of 1505/6, after Thomas Elyot had died in office: BRO, 04720 fos 132r, v, 135r. For the trade of all three merchants in 1492/3, TNA:PRO, E122/20/9, *passim*; the same account shows Leyson acting as attorney for two members of the Vaughan family and for John Esterfeld, as well as trading in his own right: TNA:PRO, E122/20/9, fo 2. For the trade of the three merchants in 1503/4, Flavin and Jones, 'Bristol 'Particular' Customs Account, 1503/4', *passim*.

the debt unsettled then Nash, in turn, was responsible in law for payment of the penalty specified in the original bond. Day's only recourse would then have been to begin a new suit against Nash. If, however, Day indeed both accepted and received compensation from Rokes, and then sought also the penalty of the bond against Nash, then the Chancery suit shows him in a deeply unfavourable light.

The real importance of this document for Cabot studies is its unmistakeable attribution of the two aliases of John Day and Hugh Say to the same Bristol merchant. It is not clear, however, whether the arbiters' award gave Day full ownership of a ship in which he already had a half share – as seems possible – or whether he obtained his moiety as a result of Rokes's default on his debt. Certainly shared ownership of the same ship figures also in another suit involving Rokes and Day, again brought by Day/Say after Rokes's death.¹²

Unusually for Chancery petitions of this period, Nash's petition can be fairly closely dated to the early autumn of 1502 or 1503. It probably belongs to the earlier year, although 1503 cannot be completely discounted. Since the date given for hearing lies in the middle of Michaelmas term rather than at its beginning, the petition was possibly filed in October 1502. The endorsement indicates that Nash's petition for a writ was granted. Since no pledges to prosecute the suit are noted on the face of the document, it is not obvious whether issue was ever actually joined on the plea.

¹² Condon and Jones, 'John Johns (Jonys) of Bristol, merchant vs. John Day *alias* Hugh Say'.

The Petition

To the reuerend ffather in god my lord off

london keper of the kingis grete Seale¹³

In the most humble wise schowith and compleynith unto youre *graciously* lordshipp' youre pore Oratour Thomas Nasshe of Bristow Bowyer¹⁴ that where as oon John Rookes late of the same [town]¹⁵ merchaunt barganed and boght of oon John Day nowe calling hymselfe hugh Say xxij^{ti} Tunne of wyne called Basterd¹⁶ for the summe of lxxij^{li} 17 for the suerty of whiche payment youre pore Oratour was ioyntely¹⁸ bounde with the seid John Rookes in a single obligacon' to the seid John Day nowe calling hymselfe hugh Say to be payed at a certeyn day as more pleylny it doithe appere by the seid obligacon' and afterward for non' payment of the seid summe the seid John Day nowe calling hymselfe hugh Say affermed a pleynt of dette¹⁹ agenst the seid John Rookes byfore the maire of the Staple²⁰ of the seid Town of Bristow upon whiche suet aswell the seid John Day nowe calling hymselfe hugh Say as the seid John Rookes by meanys and mediacon' off their ffrendis submitted theymselfe to abide the award ordinance and Jugement of John pooppley David leyson and Thomas Smyth merchauntes²¹ of the seid Town of Bristow of all maner of matere suetes and demaundis

¹³ William Warham, bishop of London by papal provision of October 1501, consecrated 25 September 1502, transferred to Canterbury 29 November 1503; Keeper of the Great Seal 11 August 1502 to 21 January 1504, when he became Chancellor.

¹⁴ Bowyer: a man who made or traded in bows (*OED*).

¹⁵ Partly obscured by filing hole.

¹⁶ 'Basterd': Bastard – a sweet Spanish or Portuguese wine.

¹⁷ £72.

¹⁸ 'ioyntely': jointly.

¹⁹ 'pleynt of dette': plaint of debt - a formal statement issued to a law court concerning the non-payment of a debt.

²⁰ The Staple Court had jurisdiction over many aspects of mercantile affairs, determining cases according to the 'law merchant', rather than common law.

²¹ John Popley, David Leyson and Thomas Smith. Customs accounts for 1492-3 and 1503-4 show all three merchants regularly engaging in both Iberian and Biscayan trade.: TNA:PRO, E122/20/9, *passim*; S. Flavin and E. T. Jones (eds.), *Bristol's Trade with Ireland and the Continent 1503-1601*, Vol. 61 (Bristol Record Society publications, 2009), pp. 2-102. Rapid use of the 1492-3 account has been facilitated by the dataset prepared by Tim Bowley (University of Bristol).

honging or depending bitwixte the seid *parties* the whiche arbitrors by good aduyse and deliberacon' and also by the assent of bothe the seid *parties* maid their arbitorment and awarde in the forme foloing that is to sey that the seid John Day otherwise called hugh Say schuld haue of the seid John Rookes in contentacon' of the seid obligacon' halfe a Schipp' called the mighell marke the whiche they²² valued and praysed²³ to the summe of xxxv^{li} xiijs^s iiij^d²⁴ and also the freght of the seid Schipp' the whiche amownted to the summe of xxiiij^{li}²⁵ with iiij buttis of Rumney²⁶ of the seid John Rookes the whiche restid in the possession of the seid John Day now calling hymselfe hugh Say the which they valued at iiij^{li} Also the seid John Day schuld [h]aue²⁷ of the seid John Rookes a pipe²⁸ of Bastard and a pipe of Biskett²⁹ the whiche they valued to the summe of xxix^s also [the seid] arbitrors awarded that the seid John Day schuld haue of the seid John Rookes a pipe of wode³⁰ the whiche they [valued] at the prec'³¹ of vj^{li} viijs^s vij^d³² in full contentacon' and payment of the foreseid summe of lxxij^{li} conteyned in the [seid oblig]acon All whiche goodis and catall were deliuered in to the possession of the seid³³ John Day now calling himselfe [Hugh S]ay according [as]³⁴ the.....³⁵ the seid arbitrors and afterward the seid John Rookes died leuyng the seid

²² Interlined with caret.

²³ 'praysed' : appraised – that is, they made a formal valuation under oath.

²⁴ £35 13s 4d. Even if this represented only half the value of half the ship, making the whole ship worth £71 6s. 8d., this seems low for a vessel that was apparently employed in the Spanish trade.

²⁵ It appears from this that Say was being allocated the freight dues, amounting to £24, taken from the ship's last voyage.

²⁶ A sweet wine, originally from Greece, but also from Spain. The valuation, of £2 per tun, seems low for such a wine. A butt was typically accounted as being equivalent to half a tun.

²⁷ MS damaged from this point. Words in square brackets have been supplied.

²⁸ A measure of volume equal to half a tun.

²⁹ 'Biskett': biscuit – ship's biscuit which would have been part of the victuals for a sea voyage.

³⁰ 'wode' : woad - an important dye-stuff. A pipe is a cask, holding 0.5 tuns.

³¹ 'prec' : probably the latin word 'precium', i.e. price.

³² £6 8s 7d.

³³ Interlined with caret.

³⁴ Damaged.

.....³⁶ and nowe it is so graciouse lord that the seid John Day calling hymselfe
³⁷ the seid obligacon' ayenst youre seid pore Oratour bfore the maire and the
³⁸ and there he is likely to be condempned apon' the seid obligacon' the
³⁹ Comyn' lawe⁴⁰ to his utter undoing fore euermore onlesse youre graciouse lordschipp'
⁴¹ therefor' youre good lordschipp' the premisses considered to graunt a writte of
⁴² [con]stabillis theym commaundyng by the same to certifie the cause bfore the king
⁴³ to be determyned according to right and good conscience and this at the reuerence
⁴⁴

[Endorsed]

Coram domino Rege in Cancellaria sua in crastino sancti martini proximo futuro⁴⁵

³⁵ Damaged. Probably 'award of'.

³⁶ This critical phrase is lost in the damage to the manuscript.

³⁷ Probably repeating the opening words of the petition – that Day now calling himself Hugh Say has affirmed a plaint upon the obligation.

³⁸ Before the mayor and the constables of Bristol, possibly mentioning also the Staple Court.

³⁹ Words along the lines of 'according to the course of the Common law' should probably be understood, but are lost in the damage to the manuscript.

⁴⁰ 'comyn lawe': common law. The Staple Court was not, however, a common law court in the strict sense of that term but operated according to the law merchant and the privileges of the city. The juxtaposition is, however, apposite: in that it did not, unlike the Chancery, have the same freedom to act according to 'right and good conscience'.

⁴¹ Words to the effect of 'unless your gracious lordship's favour be to him shown' should be understood: the precise words are lost in the damage to the manuscript.

⁴² The space occupied by the lacuna suggests that the writ requested was a *certiorari* addressed to the mayor and constables of [Bristol].

⁴³ The full phrase, modernised, would be 'before the king in his Chancery there to be determined....' but the words are lost in the damage to the manuscript.

⁴⁴ This probably continued with the stock phrase 'of almighty God and in the way of charite', but the concluding phrases of the petition are now lost.

⁴⁵ Before the lord King in his Chancery on the morrow of Martinmas (11 November) next coming – i.e. 12 November.